

**JAYREE E. RICKE**  
Claimant  
VS.  
**CESSNA AIRCRAFT COMPANY**  
Respondent  
AND  
**KEMPER INSURANCE COMPANIES**  
Insurance Carrier

**CESSNA AIRCRAFT COMPANY**  
Respondent

AND

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Insurance Carrier

Claimant appeals from the September 28, 1999, preliminary hearing Order of Administrative Law Judge Jon L. Frobish. The Administrative Law Judge granted claimant treatment for her upper extremities, denied treatment for the neck and granted claimant's counsel \$350 in post-award attorney fees. This matter was originally settled by running award on March 14, 1997.

Did the Administrative Law Judge err in denying claimant post-award medical treatment for the cervical spine?

The Appeals Board makes the following findings of fact and conclusions of law:

Claimant suffered accidental injury while working for respondent through June 24, 1993. This original injury involved claimant's bilateral upper extremities, with some minor involvement of the neck and shoulders. The matter was settled in a joint running award with Docket No. 206,867 on March 14, 1997, for a lump sum of \$45,500. Claimant was granted future medical treatment upon application to and approval by the Director.

Claimant filed an E-3 Application for Preliminary Hearing on August 31, 1999, requesting additional medical treatment. At the preliminary hearing, claimant testified specifically regarding difficulties in her left upper extremity and more specifically the left thumb and elbow, and also pain in her neck and shoulders with headaches.

Respondent objected, contending that as claimant had not worked for respondent since 1993, there was no evidence to prove a relationship between claimant's current symptoms and her work-related injury with respondent.

A review of the file discloses that there was little dispute at the time of the original injury regarding the symptoms in claimant's upper extremities. Claimant had already undergone surgery to the right thumb, and there was discussion about the possibility of surgery to the left thumb, although Dr. Morris in 1995 recommended against it. There was, however, an ongoing dispute regarding the work-related nature of claimant's cervical spine symptoms. Dr. Miguel Pirela-Cruz, in his October 24, 1994, report, diagnosed claimant with cervical spondylosis which he did not believe was work-related. He did, however, discover myofascial pain symptoms, including one trigger point in the left trapezius which he believed to be work-related. He found no herniated disc and no foraminal stenosis in the cervical spine at that time.

Dr. Blake C. Veenis, in his report of October 2, 1996, found claimant to have degenerative disc disease in the cervical spine which he did not believe to be work-related. There was, however, some chronic neck pain which he felt was related to claimant's work duties.

Dr. Harry A. Morris, in his report of June 16, 1999, found claimant to have cervical spine problems and more particularly possible cervical nerve root impingement from claimant's history. He did not find the symptoms to be related to any activities that claimant was aware of. In the Order, the Administrative Law Judge found claimant entitled to treatment for her upper extremities, but denied same for the neck.

#### CONCLUSIONS OF LAW

While this is an appeal from a preliminary hearing order, it is also a post-award hearing. Therefore, the Appeals Board has jurisdiction to consider the claimant's entitlement to medical treatment pursuant to the Court of Appeals' recent finding in Bryant v. U.S.D. No. 259, Docket No. 80,577, unpublished opinion filed April 16, 1999 (motion to publish granted September 28, 1999).

The medical evidence from 1994, 1996 and 1999 does not support claimant's contention that the degenerative process ongoing in her cervical spine is or was related to her work activities with respondent. While the doctors do find certain elements of claimant's neck pain to be related, they are symptoms such as myofascial pain syndrome

and chronic neck pain. The cervical spondylosis, degenerative disc disease, and possible cervical nerve root impingement diagnosed by the doctors were universally described as not related to claimant's work.

In addition, claimant was unable to testify regarding what physical activities caused her neck pain. She did associate her upper extremity pain with gripping and grasping, and stated that normal daily activities increased her physical problems. However, these symptoms appear more related to claimant's thumb and elbow pain in her left upper extremity, rather than to the cervical complaints.

The Appeals Board finds the medical evidence insufficient to establish a connection between claimant's ongoing cervical symptoms and her employment with respondent. Therefore, the Order of the Administrative Law Judge, granting claimant treatment for her extremities but denying treatment for the neck, is approved.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Jon L. Frobish dated September 28, 1999, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of December 1999.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: James B. Zongker, Wichita, KS  
Kirby A. Vernon, Wichita, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director